

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
EUGENE DINATALE	:	VIOLATIONS:
CHAKAWARN SIRIRATHASUK,	:	18 U.S.C. § 371 (conspiracy to defraud the
a/k/a “Chuck”	:	United States - 1 count)
	:	26 U.S.C. § 7206(2) (aiding and assisting
	:	the filing of false income tax returns - 10
		counts)

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

DiNatale & Associates

1. DiNatale & Associates, Ltd. (“D&A”), was a business providing professional bookkeeping, accounting, and tax return preparation services.
2. Defendant EUGENE DINATALE was the owner and operator of D&A, and provided professional services, including tax return preparation services, to clients of D&A.
3. Defendant CHAKAWARN SIRIRATHASUK, a/k/a “Chuck,” was employed by D&A as a Senior Accountant and provided professional services, including tax return preparation services, to clients of D&A.
4. D&A provided tax return preparation, accounting and other professional services to labor leasing agency clients, that is, companies engaged in the business of providing temporary laborers to clients for a fee.

Employment Taxes

5. Employers were required by law to collect, account for, and pay over to the United States, employment taxes due on wages paid to their employees, including withholdings of federal income taxes and Federal Insurance Compensation Act (“FICA”) taxes.

6. FICA taxes were assessed at the rate of 15.3% of the employee’s wages, and consisted of a tax of 12.4% on the employees’ wages for the payment Social Security taxes, and a tax of 2.9% on the employees’ wages for the payment of Medicare taxes.

7. Employers were responsible for the direct payment of one-half of the FICA taxes due on the wages paid to their employees, or 7.65% of the amount of wages paid to their employees.

8. Employees were responsible for the payment of one-half of the FICA taxes due on their wages, or 7.65%, and employers were required by law to withhold and pay over to the United States the employees’ share of FICA taxes due on the employees’ wages.

9. The Internal Revenue Service (“IRS”) of the United States Treasury Department required employers to collect, account for, and pay over to the United States, the amount of FICA taxes due on wages paid to their employees by filing an Employer’s Quarterly Federal Tax Return, Form 941, on a quarterly basis.

D&A’s Preparation of Form 941 Returns

10. Defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared and assisted in the preparation of Employer’s Quarterly Federal Tax Returns, Form 941, for labor leasing agency clients of D&A for tax years 2001, 2002 and 2003, inclusive.

11. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK knew that the IRS required that temporary workers employed by labor leasing agencies be treated as employees of the temporary labor leasing agency, and not independent contractors or employees of the clients of the labor leasing agency.

Corporate Income Tax Returns

12. Corporations were required by law to file a U.S. Corporate Income Tax Return, Form 1120, with the IRS on an annual basis, and to pay the income tax due according to the tax return.

13. Corporate taxpayers were permitted by law to claim a business expense deduction against corporate income equal to the employer's share of the amount of FICA taxes due from the corporation during the tax year on the wages that the corporation paid to its employees.

14. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK prepared and assisted in the preparation of U.S. Corporate Tax Returns, Form 1120, and supporting schedules, for labor leasing agency clients of D&A for tax years 2001, 2002 and 2003, inclusive.

THE CONSPIRACY TO DEFRAUD

15. From in or about January 2001 to on or about April 15, 2004, in the Eastern District of Pennsylvania and elsewhere, defendants

**EUGENE DINATALE and
CHAKAWARN SIRIRATHASUK,
a/k/a "Chuck,"**

conspired and agreed, together and with others known and unknown to the grand jury, to defraud

the United States by impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS of the Department of Treasury in the ascertainment, computation, assessment, and collection of employment taxes and corporate income taxes, due and owing to the United States from labor leasing agency clients of D&A.

MANNER AND MEANS

It was part of the conspiracy to defraud that:

16. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK required labor leasing agency clients of D&A to provide D&A with wage and payroll information regarding the employees of the labor leasing agency.

17. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK required the owner or a corporate officer of the labor leasing agency client to sign the Form 941 quarterly tax return, and then kept the signed Form 941 quarterly tax return in the client's file at the D&A business office.

18. After obtaining a signed Form 941 quarterly tax return, defendants

EUGENE DINATALE and CHAKAWARN SIRIRATHASUK failed to file the Form 941 tax returns with the IRS.

19. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK instructed labor leasing agency clients that they did not have to file the Form 941 quarterly tax returns which D&A had prepared for them and did not have to pay the employment taxes due to the United States as reported on the Form 941 quarterly tax returns, and defendants DINATALE and SIRIRATHASUK failed to instruct labor leasing agency clients that they were required to file the Form 941 quarterly tax returns with the IRS and to pay the

employment taxes due to the United States as reported on the Form 941 quarterly tax returns.

20. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK assured the labor leasing agency clients of D&A that there would be no problems with the IRS, even though the Form 941 quarterly tax returns were not filed with the IRS and the employment taxes due to the United States were not paid.

21 Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK advised labor leasing clients of D&A that, if they had any problems with the IRS as the result of the Form 941 quarterly tax returns not being filed or the FICA taxes not being paid, then D&A would create a new corporation and change the name of the labor leasing agency, thereby impeding, obstructing and defeating the ability of the IRS to ascertain, compute, assess, and collect, employment taxes due and owing to the United States from the labor leasing agency clients.

22. In reliance on the acts and representations of defendants EUGENE

DINATALE and CHAKAWARN SIRIRATHASUK, labor leasing clients of D&A failed to collect, account for, and pay over to the United States the FICA taxes that were due on wages paid by the labor leasing agencies to their employees.

23. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK prepared U.S. Corporate Income Tax Returns, Form 1120, on behalf of labor leasing clients of D&A, based, in part, upon wage and payroll information supplied by the labor leasing agency clients and contained in the Form 941 returns which D&A prepared for the labor leasing clients but which were never filed with the IRS.

24. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK claimed business expense deductions for the payment of FICA taxes as “Other Costs” on Schedule A, Line 5, on Form 1120 corporate income tax returns they prepared for labor leasing clients of D&A, based upon information obtained from the Form 941 quarterly tax returns D&A prepared for the labor leasing clients of D&A, when, as defendants DINATALE and SIRIRATHASUK well knew, the FICA taxes due to the IRS as reported on the Form 941 quarterly tax returns had not, in fact, been paid to the IRS.

25. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK prepared U.S. Corporate Income Tax Returns, Form 1120, for labor leasing clients of D&A, that contained false, material information in that the Form 1120 corporate tax returns overstated the amount of business expense deduction allowable for the “Other Costs” on Schedule A, Line 5, and under reported the amount of taxable income earned by the labor leasing clients and under reported the amount of income tax due to the United States.

26. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK prepared and subscribed to U.S. Corporate Income Tax Returns, Form 1120, for labor leasing clients of D&A, knowing full well that the Form 1120 corporate income tax returns contained false, material information.

27. Defendants EUGENE DINATALE and CHAKAWARN

SIRIRATHASUK prepared and submitted to the IRS, and aided and assisted in the preparation and submission of, U.S. Corporate Income Tax Returns, Form 1120, and supporting schedules, for labor leasing clients of D&A, knowing full well that the Form 1120 corporate income tax returns contained false, material information.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its objects, defendants committed the following overt acts, among others, in the Eastern District of Pennsylvania:

1. On or about April 24, 2001, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for A&A Personnel, Inc., for the quarter ending March 31, 2001.
2. On or about July 16, 2001, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for A&A Personnel, Inc., for the quarter ending June 30, 2001.
3. On or about October 22, 2001, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for A&A Personnel, Inc., for the quarter ending September 30, 2001.
4. On or about January 22, 2002, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for A&A Personnel, Inc., for the quarter ending December 31, 2001.
5. On or about March 28, 2002, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Unique Services, Inc., for tax year 2001.

6. On or about March 30, 2002, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Pinnacle Labor Group, Inc., for tax year 2001.

7. On or about April 30, 2002, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for Direct Connect Temp Services, Inc., for the quarter ending March 31, 2002.

8. On or about May 28, 2002, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Mid Atlantic Labor Group, Inc., for tax year 2001.

9. On or about July 31, 2002, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for Direct Connect Temp Services, Inc., for the quarter ending June 30, 2002.

10. On or about October 31, 2002, defendants EUGENE DINATALE and CHAKAWARN SIRIRATHASUK prepared, and aided and assisted in the preparation of, an Employer's Quarterly Federal Tax Return, Form 941, for Direct Connect Temp Services, Inc., for the quarter ending September 30, 2002.

11. On or about May 1, 2003, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Independent Tree Service, Inc., for tax year 2001.

12. On or about May 22, 2003, defendant EUGENE DINATALE signed and

subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Independent Tree Service, Inc., for tax year 2002.

13. On or about June 24, 2003, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Unique Services, Inc., for tax year 2002.

14. On or about July 25, 2003, defendant CHAKAWARN SIRIRATHASUK signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Direct Connect Temp Service, Inc., for tax year 2002.

15. On or about August 15, 2003, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Pinnacle Labor Group, Inc., for tax year 2002.

16. On or about October 24, 2003, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Accu State Temp Service, Inc., for tax year 2002.

17. On or about October 24, 2003, defendant EUGENE DINATALE signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Corporate Labor, Inc., for tax year 2002.

18. On or about March 16, 2004, defendant CHAKAWARN SIRIRATHASUK signed and subscribed, as a paid Tax Preparer, a U.S. Corporate Income Tax Return, Form 1120, for Direct Connect Temp Service, Inc., for tax year 2003.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about March 28, 2002, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2001, for Unique Services, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2001 was \$154,846, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2001 was \$64,936.

In violation of Title 26, United States Code, Section 7206(2).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about March 30, 2002, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2001, for Pinnacle Labor Group, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2001 was \$124,120, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2001 was \$51,146.

In violation of Title 26, United States Code, Section 7206(2).

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about May 28, 2002, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2001, for Mid Atlantic Labor Group, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2001 was \$200,575, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2001 was \$73,805.

In violation of Title 26, United States Code, Section 7206(2).

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about May 1, 2003, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2001, for Independent Tree Service, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2001 was \$43,071, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2001 was \$13,428.

In violation of Title 26, United States Code, Section 7206(2).

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about May 22, 2003, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2002, for Independent Tree Service, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2002 was \$61,319, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2002 was \$22,056.

In violation of Title 26, United States Code, Section 7206(2).

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about June 24, 2003, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2002, for Unique Services, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2002 was \$132,552, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2002 was \$44,197.

In violation of Title 26, United States Code, Section 7206(2).

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about July 25, 2003, in the Eastern District of Pennsylvania,

defendant

**CHAKAWARN SIRIRATHASUK,
a/k/a “Chuck,”**

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2002, for Direct Connect Temp Service, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer’s “Other Costs” for tax year 2002 was \$34,272, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as “Other Costs” for tax year 2002 was \$7,494.

In violation of Title 26, United States Code, Section 7206(2).

COUNT NINE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about August 15, 2003, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2002, for Pinnacle Labor Group, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2002 was \$105,507, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2002 was \$49,195.

In violation of Title 26, United States Code, Section 7206(2).

COUNT TEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about October 24, 2003, in the Eastern District of Pennsylvania,

defendant

EUGENE DINATALE

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2002, for Accu State Temp Service, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer's "Other Costs" for tax year 2002 was \$45,229, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as "Other Costs" for tax year 2002 was \$15,738.

In violation of Title 26, United States Code, Section 7206(2).

COUNT ELEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 14 of Count One are incorporated here.
2. On or about March 16, 2004, in the Eastern District of Pennsylvania,

defendant

**CHAKAWARN SIRIRATHASUK,
a/k/a “Chuck,”**

willfully aided and assisted in, and advised the preparation and presentation, to the IRS, of a U.S. Corporate Income Tax Return, Form 1120, for tax year 2003, for Direct Connect Temp Service, Inc., which was false and fraudulent as to a material matter, in that the Form 1120 stated on Schedule A, Line 5, that the amount of the taxpayer’s “Other Costs” for tax year 2003 was \$52,627, when in fact, as the defendant well knew, the amount which the taxpayer was entitled to claim as “Other Costs” for tax year 2003 was \$4,212.

In violation of Title 26, United States Code, Section 7206(2).

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney